



General Assembly

January Session, 2019

Amendment

LCO No. 8486



Offered by:
SEN. BERGSTEIN, 36th Dist.

To: Subst. Senate Bill No. 927

File No. 260

Cal. No. 141

"AN ACT CREATING THE ENVIRONMENTAL INFRASTRUCTURE FUND WITHIN THE CONNECTICUT GREEN BANK."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Subsections (a) to (d), inclusive, of section 16-245n of the
4 general statutes are repealed and the following is substituted in lieu
5 thereof (*Effective October 1, 2019*):

6 (a) For purposes of this section: [, "clean energy"]

7 (1) "Clean energy" means solar photovoltaic energy, solar thermal,
8 geothermal energy, wind, ocean thermal energy, wave or tidal energy,
9 fuel cells, landfill gas, hydropower that meets the low-impact
10 standards of the Low-Impact Hydropower Institute, hydrogen
11 production and hydrogen conversion technologies, low emission
12 advanced biomass conversion technologies, alternative fuels, used for
13 electricity generation including ethanol, biodiesel or other fuel
14 produced in Connecticut and derived from agricultural produce, food

15 waste or waste vegetable oil, provided the Commissioner of Energy
16 and Environmental Protection determines that such fuels provide net
17 reductions in greenhouse gas emissions and fossil fuel consumption,
18 usable electricity from combined heat and power systems with waste
19 heat recovery systems, thermal storage systems, other energy
20 resources and emerging technologies which have significant potential
21 for commercialization and which do not involve the combustion of
22 coal, petroleum or petroleum products, municipal solid waste or
23 nuclear fission, financing of energy efficiency projects, projects that
24 seek to deploy electric, electric hybrid, natural gas or alternative fuel
25 vehicles and associated infrastructure, any related storage,
26 distribution, manufacturing technologies or facilities and any Class I
27 renewable energy source, as defined in section 16-1; [.] and

28 (2) "Environmental infrastructure" means structures, facilities,
29 systems, services and improvement projects related to water, waste
30 and recycling, zero-emission vehicle refueling, climate adaptation and
31 resiliency, agriculture, land conservation, parks and recreation, and
32 other environmental markets.

33 (b) On and after July 1, 2004, the Public Utilities Regulatory
34 Authority shall assess or cause to be assessed a charge of not less than
35 one mill per kilowatt hour charged to each end use customer of electric
36 services in this state which shall be deposited into the Clean Energy
37 Fund established under subsection (c) of this section.

38 (c) (1) There is hereby created a Clean Energy Fund which shall be
39 within the Connecticut Green Bank. The fund may receive any amount
40 required by law to be deposited into the fund and may receive any
41 federal funds as may become available to the state for clean energy
42 investments. Upon authorization of the Connecticut Green Bank
43 established pursuant to subsection (d) of this section, any amount in
44 said fund may be used for expenditures that promote investment in
45 clean energy in accordance with a comprehensive plan developed by it
46 to foster the growth, development and commercialization of clean
47 energy sources, related enterprises and stimulate demand for clean

48 energy and deployment of clean energy sources that serve end use
49 customers in this state and for the further purpose of supporting
50 operational demonstration projects for advanced technologies that
51 reduce energy use from traditional sources. Such expenditures may
52 include, but not be limited to, providing low-cost financing and credit
53 enhancement mechanisms for clean energy projects and technologies,
54 reimbursement of the operating expenses, including administrative
55 expenses incurred by the Connecticut Green Bank and Connecticut
56 Innovations, Incorporated, and capital costs incurred by the
57 Connecticut Green Bank in connection with the operation of the fund,
58 the implementation of the plan developed pursuant to subsection (d)
59 of this section or the other permitted activities of the Connecticut
60 Green Bank, disbursements from the fund to develop and carry out the
61 plan developed pursuant to subsection (d) of this section, grants, direct
62 or equity investments, contracts or other actions which support
63 research, development, manufacture, commercialization, deployment
64 and installation of clean energy technologies, and actions which
65 expand the expertise of individuals, businesses and lending
66 institutions with regard to clean energy technologies.

67 (2) (A) There is hereby created an Environmental Infrastructure
68 Fund which shall be within the Connecticut Green Bank. The fund
69 may receive any amount required by law to be deposited into the fund
70 and may receive any federal funds as may become available to the
71 state for environmental infrastructure investments, except that the
72 fund shall not receive: (i) Ratepayer or Regional Greenhouse Gas
73 Initiative funds, (ii) funds that have been deposited in or are required
74 to be deposited in an account of the Clean Water Fund pursuant to
75 sections 22a-475 to 22a-483f, inclusive, or (iii) funds collected from a
76 water company, as defined in section 25-32a.

77 (B) Upon authorization of the Connecticut Green Bank established
78 pursuant to subsection (d) of this section, any amount in said fund
79 may be used for expenditures that promote investment in
80 environmental infrastructure in accordance with a comprehensive plan
81 developed by it to foster the growth, development, commercialization

82 and, where applicable, preservation of environmental infrastructure
83 and related enterprises. Such expenditures may include, but not be
84 limited to, providing low-cost financing and credit enhancement
85 mechanisms for projects and technologies, reimbursement of the
86 operating expenses, including administrative expenses incurred by the
87 Connecticut Green Bank, and capital costs incurred by the Connecticut
88 Green Bank in connection with the operation of the fund, the
89 implementation of the plan developed pursuant to subsection (d) of
90 this section or the other permitted activities of the Connecticut Green
91 Bank, disbursements from the fund to develop and carry out the plan
92 developed pursuant to subsection (d) of this section, grants, direct or
93 equity investments, contracts or other actions which support research,
94 development, manufacture, commercialization, deployment and
95 installation of environmental infrastructure, and actions which expand
96 the expertise of individuals, businesses and lending institutions with
97 regard to environmental infrastructure.

98 (d) (1) (A) The Connecticut Green Bank is hereby established and
99 created as a body politic and corporate, constituting a public
100 instrumentality and political subdivision of the state of Connecticut
101 established and created for the performance of an essential public and
102 governmental function. The Connecticut Green Bank shall not be
103 construed to be a department, institution or agency of the state.

104 (B) The Connecticut Green Bank shall (i) develop separate programs
105 to finance and otherwise support clean energy and environmental
106 infrastructure investment in residential, municipal, small business and
107 larger commercial projects and such others as the Connecticut Green
108 Bank may determine; (ii) support financing or other expenditures that
109 promote investment in clean energy sources and environmental
110 infrastructure in accordance with a comprehensive plan developed by
111 it to foster the growth, development and commercialization of clean
112 energy sources, environmental infrastructure and related enterprises;
113 and (iii) stimulate demand for clean energy and the deployment of
114 clean energy sources within the state that serve end use customers in
115 the state.

116 (C) The Clean Energy Finance and Investment Authority shall
117 constitute a successor agency to Connecticut Innovations,
118 Incorporated, for the purposes of administering the Clean Energy
119 Fund in accordance with section 4-38d. The Connecticut Green Bank
120 shall constitute a successor agency to the Clean Energy Finance and
121 Investment Authority for purposes of administering the Clean Energy
122 Fund in accordance with section 4-38d. The Connecticut Green Bank
123 shall have all the privileges, immunities, tax exemptions and other
124 exemptions of Connecticut Innovations, Incorporated, with respect to
125 said fund. The Connecticut Green Bank shall administer the
126 Environmental Infrastructure Fund. The Connecticut Green Bank shall
127 be subject to suit and liability solely from the assets, revenues and
128 resources of said bank and without recourse to the general funds,
129 revenues, resources or other assets of Connecticut Innovations,
130 Incorporated. The Connecticut Green Bank may provide financial
131 assistance in the form of grants, loans, loan guarantees or debt and
132 equity investments, as approved in accordance with written
133 procedures adopted pursuant to section 1-121. The Connecticut Green
134 Bank may assume or take title to any real property, convey or dispose
135 of its assets and pledge its revenues to secure any borrowing, convey
136 or dispose of its assets and pledge its revenues to secure any
137 borrowing, for the purpose of developing, acquiring, constructing,
138 refinancing, rehabilitating or improving its assets or supporting its
139 programs, provided each such borrowing or mortgage, unless
140 otherwise provided by the board or said bank, shall be a special
141 obligation of said bank, which obligation may be in the form of bonds,
142 bond anticipation notes or other obligations which evidence an
143 indebtedness to the extent permitted under this chapter to fund,
144 refinance and refund the same and provide for the rights of holders
145 thereof, and to secure the same by pledge of revenues, notes and
146 mortgages of others, and which shall be payable solely from the assets,
147 revenues and other resources of said bank and such bonds may be
148 secured by a special capital reserve fund contributed to by the state.
149 The Connecticut Green Bank shall have the purposes as provided by
150 resolution of said bank's board of directors, which purposes shall be

151 consistent with this section. No further action is required for the
152 establishment of the Connecticut Green Bank, except the adoption of a
153 resolution for said bank.

154 (D) In addition to, and not in limitation of, any other power of the
155 Connecticut Green Bank set forth in this section or any other provision
156 of the general statutes, said bank shall have and may exercise the
157 following powers in furtherance of or in carrying out its purposes:

158 (i) To have perpetual succession as a body corporate and to adopt
159 bylaws, policies and procedures for the regulation of its affairs and the
160 conduct of its business;

161 (ii) To make and enter into all contracts and agreements that are
162 necessary or incidental to the conduct of its business;

163 (iii) To invest in, acquire, lease, purchase, own, manage, hold, sell
164 and dispose of real or personal property or any interest therein;

165 (iv) To borrow money or guarantee a return to investors or lenders;

166 (v) To hold patents, copyrights, trademarks, marketing rights,
167 licenses or other rights in intellectual property;

168 (vi) To employ such assistants, agents and employees as may be
169 necessary or desirable, who shall be exempt from the classified service
170 and shall not be employees, as defined in subsection (b) of section 5-
171 270; establish all necessary or appropriate personnel practices and
172 policies, including those relating to hiring, promotion, compensation
173 and retirement, and said bank shall not be an employer, as defined in
174 subsection (a) of section 5-270; and engage consultants, attorneys,
175 financial advisers, appraisers and other professional advisers as may
176 be necessary or desirable;

177 (vii) To invest any funds not needed for immediate use or
178 disbursement pursuant to investment policies adopted by said bank's
179 board of directors;

180 (viii) To procure insurance against any loss or liability with respect
181 to its property or business of such types, in such amounts and from
182 such insurers as it deems desirable;

183 (ix) To enter into joint ventures and invest in, and participate with
184 any person, including, without limitation, government entities and
185 private corporations, in the formation, ownership, management and
186 operation of business entities, including stock and nonstock
187 corporations, limited liability companies and general or limited
188 partnerships, formed to advance the purposes of said bank, provided
189 members of the board of directors or officers or employees of said
190 bank may serve as directors, members or officers of any such business
191 entity, and such service shall be deemed to be in the discharge of the
192 duties or within the scope of the employment of any such director,
193 officer or employee, as the case may be, so long as such director, officer
194 or employee does not receive any compensation or financial benefit as
195 a result of serving in such role;

196 (x) To enter into a memorandum of understanding or other
197 arrangements with Connecticut Innovations, Incorporated, with
198 respect to the provision or sharing of space, office systems or staff
199 administrative support, on such terms as may be agreed to between
200 said bank and Connecticut Innovations, Incorporated; and

201 (xi) To do all other acts and things necessary or convenient to carry
202 out the purposes of said bank.

203 (E) (i) The Connecticut Green Bank may form one or more
204 subsidiaries to carry out the purposes of said bank, as described in
205 subparagraph (B) of subdivision (1) of this subsection, and may
206 transfer to any such subsidiary any moneys and real or personal
207 property of any kind or nature. Any subsidiary may be organized as a
208 stock or nonstock corporation or a limited liability company. Each such
209 subsidiary shall have and may exercise such powers of said bank, as
210 set forth in the resolution of the board of directors of said bank
211 prescribing the purposes for which such subsidiary is formed, and

212 such other powers provided to it by law.

213 (ii) No such subsidiary of said bank shall be deemed a quasi-public
214 agency for purposes of chapter 12 [and no such subsidiary shall] or
215 have all the privileges, immunities, tax exemptions and other
216 exemptions of said bank, unless such subsidiary is a single member
217 limited liability company that is disregarded as an entity separate from
218 its owner. In no event shall any such subsidiary have the power to hire
219 or otherwise retain employees. The governing documents of any such
220 subsidiary shall provide for the dissolution of such subsidiary upon
221 the completion of the purpose for which such subsidiary was formed.
222 Each such subsidiary may sue and shall be subject to suit, provided its
223 liability shall be limited solely to the assets, revenues and resources of
224 the subsidiary and without recourse to the general funds, revenues,
225 resources or any other assets of said bank. Each such subsidiary is
226 authorized to assume or take title to property subject to any existing
227 lien, encumbrance or mortgage and to mortgage, convey or dispose of
228 its assets and pledge its revenues to secure any borrowing, provided
229 each such borrowing or mortgage shall be a special obligation of the
230 subsidiary, which obligation may be in the form of bonds, bond
231 anticipation notes and other obligations, to fund and refund the same
232 and provide for the rights of the holders thereof, and to secure the
233 same by a pledge of revenues, notes and other assets and which shall
234 be payable solely from the revenues, assets and other resources of the
235 subsidiary. The Connecticut Green Bank may assign to a subsidiary
236 any rights, moneys or other assets it has under any governmental
237 program. No subsidiary of said bank shall borrow without the
238 approval of the board of directors of said bank.

239 (iii) Each such subsidiary shall act through its board of directors or
240 managing members, at least one-half of which shall be members of the
241 board of directors of said bank or their designees or officers or
242 employees of said bank.

243 (iv) The provisions of section 1-125 and this subsection shall apply
244 to any officer, director, designee or employee appointed as a member,

245 director or officer of any such subsidiary. Any such person so
246 appointed shall not be personally liable for the debts, obligations or
247 liabilities of any such subsidiary as provided in section 1-125. The
248 subsidiary shall, and said bank may, save harmless and indemnify
249 such officer, director, designee or employee as provided by section 1-
250 125.

251 (v) The Connecticut Green Bank, or such subsidiary, may take such
252 actions as are necessary to comply with the provisions of the Internal
253 Revenue Code of 1986, or any subsequent corresponding internal
254 revenue code of the United States, as amended from time to time, to
255 qualify and maintain any such subsidiary as a corporation exempt
256 from taxation under said code.

257 (vi) The Connecticut Green Bank may make loans to each such
258 subsidiary from its assets and the proceeds of its bonds, notes and
259 other obligations, provided the source and security for the repayment
260 of such loans is derived from the assets, revenues and resources of the
261 subsidiary.

262 (2) (A) The Connecticut Green Bank may seek to qualify as a
263 Community Development Financial Institution under Section 4702 of
264 the United States Code. If approved as a Community Development
265 Financial Institution, said bank would be treated as a qualified
266 community development entity for purposes of Section 45D and
267 Section 1400N(m) of the Internal Revenue Code.

268 (B) Before making any loan, loan guarantee, or such other form of
269 financing support or risk management for a clean energy or
270 environmental infrastructure project, the Connecticut Green Bank shall
271 develop standards to govern the administration of said bank through
272 rules, policies and procedures that specify borrower eligibility, terms
273 and conditions of support, and other relevant criteria, standards or
274 procedures.

275 (C) Funding sources specifically authorized include, but are not
276 limited to:

277 (i) Funds repurposed from existing programs providing financing
278 support for clean energy projects, provided any transfer of funds from
279 such existing programs shall be subject to approval by the General
280 Assembly and shall be used for expenses of financing, grants and
281 loans;

282 (ii) Any federal funds that can be used for the purposes specified in
283 subsection (c) of this section, provided such funds are not required to
284 be deposited in the accounts of the Clean Water Fund pursuant to
285 sections 22a-475 to 22a-483f, inclusive;

286 (iii) Charitable gifts, grants, contributions as well as loans from
287 individuals, corporations, university endowments and philanthropic
288 foundations;

289 (iv) Earnings and interest derived from financing support activities
290 for clean energy and environmental infrastructure projects backed by
291 the Connecticut Green Bank;

292 (v) If and to the extent that the Connecticut Green Bank qualifies as
293 a Community Development Financial Institution under Section 4702 of
294 the United States Code, funding from the Community Development
295 Financial Institution Fund administered by the United States
296 Department of Treasury, as well as loans from and investments by
297 depository institutions seeking to comply with their obligations under
298 the United States Community Reinvestment Act of 1977; and

299 (vi) The Connecticut Green Bank may enter into contracts with
300 private sources to raise capital. The average rate of return on such debt
301 or equity shall be set by the board of directors of said bank.

302 (D) The Connecticut Green Bank may provide financing support
303 under this subsection if said bank determines that the amount to be
304 financed by said bank and other nonequity financing sources do not
305 exceed eighty per cent of the cost to develop and deploy a clean energy
306 project or up to one hundred per cent of the cost of financing an energy
307 efficiency project or environmental infrastructure project.

308 (E) The Connecticut Green Bank may assess reasonable fees on its
309 financing activities to cover its reasonable costs and expenses, as
310 determined by the board.

311 (F) The Connecticut Green Bank shall make information regarding
312 the rates, terms and conditions for all of its financing support
313 transactions available to the public for inspection, including formal
314 annual reviews by both a private auditor conducted pursuant to
315 subdivision (2) of subsection (f) of this section and the Comptroller,
316 and providing details to the public on the Internet, provided public
317 disclosure shall be restricted for patentable ideas, trade secrets,
318 proprietary or confidential commercial or financial information,
319 disclosure of which may cause commercial harm to a
320 nongovernmental recipient of such financing support and for other
321 information exempt from public records disclosure pursuant to section
322 1-210.

323 (G) The Connecticut Green Bank shall not apply, directly or through
324 a subsidiary, to be eligible for grants under (i) the federal Water
325 Quality Act of 1987 without the approval of the State Treasurer and the
326 Commissioner of Energy and Environmental Protection, or (ii) the
327 federal Safe Drinking Water Act without the approval of the State
328 Treasurer and the Commissioner of Public Health.

329 (3) No director, officer, employee or agent of the Connecticut Green
330 Bank, while acting within the scope of his or her authority, shall be
331 subject to any personal liability resulting from exercising or carrying
332 out any of the Connecticut Green Bank's purposes or powers.

333 Sec. 2. Subsection (f) of section 16-245n of the general statutes is
334 repealed and the following is substituted in lieu thereof (*Effective*
335 *October 1, 2019*)

336 (f) (1) The board shall issue annually a report to the Department of
337 Energy and Environmental Protection reviewing the activities of the
338 Connecticut Green Bank in detail and shall provide a copy of such
339 report, in accordance with the provisions of section 11-4a, to the joint

340 standing committees of the General Assembly having cognizance of
341 matters relating to energy, the environment and commerce. The report
342 shall include a description of the programs and activities undertaken
343 during the reporting period jointly or in collaboration with the Energy
344 Conservation and Load Management Funds established pursuant to
345 section 16-245m.

346 (2) The Clean Energy Fund and the Environmental Infrastructure
347 Fund shall be audited annually. Such audits shall be conducted with
348 generally accepted auditing standards by independent certified public
349 accountants certified by the State Board of Accountancy. Such
350 accountants may be the accountants for the Connecticut Green Bank.

351 (3) Any entity that receives financing for a clean energy or
352 environmental infrastructure project from the [fund] Clean Energy
353 Fund or the Environmental Infrastructure Fund shall provide the
354 board an annual statement, certified as correct by the chief financial
355 officer of the recipient of such financing, setting forth all sources and
356 uses of funds in such detail as may be required by the bank for such
357 project. The Connecticut Green Bank shall maintain any such audits for
358 not less than five years. Residential projects for buildings with one to
359 four dwelling units are exempt from this and any other annual
360 auditing requirements, except that residential projects may be required
361 to grant their utility companies' permission to release their usage data
362 to the Connecticut Green Bank.

363 Sec. 3. Subdivision (1) of subsection (f) of section 16-245n of the
364 general statutes, as amended by section 22 of public act 18-50, is
365 repealed and the following is substituted in lieu thereof (*Effective*
366 *January 1, 2020*):

367 (f) (1) The board shall issue annually a report to the Department of
368 Energy and Environmental Protection reviewing the activities of the
369 Connecticut Green Bank in detail and shall provide a copy of such
370 report, in accordance with the provisions of section 11-4a, to the joint
371 standing committees of the General Assembly having cognizance of

372 matters relating to energy, the environment and commerce. The report
373 shall include a description of the programs and activities undertaken
374 during the reporting period jointly or in collaboration with the
375 Conservation and Load Management Plan established pursuant to
376 section 16-245m."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2019</i>	16-245n(a) to (d)
Sec. 2	<i>October 1, 2019</i>	16-245n(f)
Sec. 3	<i>January 1, 2020</i>	16-245n(f)(1)